

101 KAR 2:105. Sick leave sharing procedures.

RELATES TO: KRS 18A.110(1)(h), (7)(g), 18A.196, 18A.197

STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.110(1)(h), (7)(g), 18A.197(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.030(2)(b) requires the Secretary of Personnel to promulgate administrative regulations, consistent with KRS Chapter 18A and federal standards, for the administration of a personnel system. KRS 18A.110(1)(h) and (7)(g) require the secretary to promulgate administrative regulations governing various types of work leave, including sick leave. KRS 18A.197(9) requires the secretary to promulgate administrative regulations to implement the sick leave sharing program. This administrative regulation establishes the sick leave sharing procedures.

Section 1. Definitions. (1) "Employee" is defined by KRS 18A.196(1).

(2) "Immediate family" means:

(a) The employee's spouse, mother, father, grandparent, son, or daughter; or

(b) A person of similarly close relationship:

1. Who has resided with the employee for at least thirty (30) days prior to application; or

2. For whom the employee is legally responsible.

(3) "Medically certified illness, injury, impairment, or physical or mental condition" means a disabling medical condition which has rendered or will render the employee completely incapable of performing the essential duties of the job due to:

(a) The employee's personal illness; or

(b) The medically certified necessity that the employee care for an eligible immediate family member.

Section 2. Eligibility to Donate or Receive Sick Leave. (1) An employee shall not qualify to donate or receive sick leave under the sick leave sharing program if the employee:

(a) Is not in active payroll status; or

(b) Has:

1. Resigned;

2. Retired; or

3. Been placed in unpaid leave status by a personnel action.

(2) To request donated sick leave due to a medically certified illness, injury, impairment, or physical or mental condition of the employee or an eligible immediate family member, an employee shall complete a Sick Leave Sharing Application.

(3) To donate sick leave, an employee shall complete a Sick Leave Sharing Donation Form.

Section 3. Procedures and Restrictions. (1) The ten (10) consecutive days of leave required for eligibility shall be leave with or without pay.

(2) Sick leave sharing shall not be authorized for mere convenience or employee preference.

(3) Sick leave shall not be donated to an employee regularly scheduled to work thirty seven and one-half (37.5) hours per week in an amount less than seven and one-half (7.5) hours. Sick leave shall not be donated to an employee regularly scheduled to work forty (40) hours per week in an amount less than eight (8) hours.

(4) If multiple donors donate sick leave to an eligible recipient, agencies shall transfer leave in chronological order of receipt of the donation forms, up to the maximum amount that has been certified to be needed by the recipient.

(5) The applicant for sick leave sharing shall be responsible for filing:

- (a) The appropriate medical certificates certifying the medical necessity; and
- (b) The Sick Leave Sharing Application.
- (6) Donated sick leave shall not be utilized retroactively except to cover the period between the date the request was submitted to the employee's supervisor or agency representative and the date of approval by the appointing authority.
- (7) The sick leave sharing recipient shall be responsible for monitoring the amount of sick leave donated and used.
- (8) Except as provided by subsection (9) of this section, donated sick leave shall be used:
 - (a) In the order in which it is donated; and
 - (b) On consecutive days.
- (9) Leave that an employee accrues while receiving donated sick leave shall be used before donated sick leave.
- (10) When the recipient of donated leave returns to work, unused donated leave shall be restored to the donors in reverse order of donation, unless the recipient provides medical evidence that continued, periodic medical treatment relating to the original condition for which leave was donated is required.
- (11) If a sick leave donor resigns, retires, or is otherwise terminated from state employment before the process of transferring leave to the recipient has begun, the leave shall not be available for use by the recipient.
- (12) An appointing authority may require a sick leave recipient to provide an updated medical certificate attesting to the continued need for leave after thirty (30) working days of sick leave.
- (13) An employee receiving workers' compensation benefits shall be eligible to receive shared sick leave to maintain a regular level of pay.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Sick Leave Sharing Application", March 2011; and
- (b) "Sick Leave Sharing Donation Form", March 2011.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (20 Ky.R. 1723; Am. 2612; eff. 2-3-94; 26 Ky.R. 100; 572; eff. 8-25-99; 38 Ky.R. 646; 893; eff. 11-16-11; 41 Ky.R. 2118; 2542; eff. 7-6-2015.)